

CHAPTER 3-04-04 RESPONSIBILITIES TO CLIENTS

Section

3-04-04-01	Confidential Client Information
3-04-04-02	Contingent Fees

3-04-04-01. Confidential client information. An accountant shall not disclose any confidential information without the specific consent of the client.

1. This section shall not be construed:
 - a. To relieve an accountant of the accountant's obligations under sections 3-04-03-02 and 3-04-03-03.
 - b. To affect in any way the accountant's obligation to comply with a validly issued and enforceable subpoena or summons.
 - c. To prohibit review of an accountant's professional work under AICPA or board authorization.
 - d. To preclude an accountant from initiating a complaint with, or responding to any inquiry made by, the board or its designee or a duly constituted investigative or disciplinary body.
2. Board members, members of a recognized investigative or disciplinary body, and practice reviewers shall not use to their own advantage or disclose any confidential client information that comes to their attention in carrying out their official responsibilities. However, this prohibition shall not restrict the exchange of information with recognized investigative or disciplinary bodies or affect in any way compliance with a validly issued and enforceable subpoena or summons.

History: Amended effective July 1, 1991; March 1, 1995.

General Authority: NDCC 43-02.2-03

Law Implemented: NDCC 43-02.2-03, 43-02.2-16

3-04-04-02. Contingent fees. An accountant may not:

1. Perform for a contingent fee any professional services for, or receive such a fee from, a client for whom the accountant or accountant's firm performs:
 - a. An audit or review of a financial statement;
 - b. A compilation of a financial statement when the accountant expects, or reasonably might expect, that a third party will use the financial statement and the accountant's compilation report does not disclose a lack of independence; or

- c. An examination of prospective financial information; or
- 2. Prepare an original or amended tax return or claim for a tax refund for a contingent fee for any client.

The prohibition in subsection 1 applies during the period in which the accountant or the accountant's firm is engaged to perform any of the services listed above as well as the period covered by any historical financial statements involved in any such listed services.

For purposes of this section, a contingent fee is a fee established for the performance of any service pursuant to an arrangement in which no fee will be charged unless a specified finding or result is attained, or in which the amount of the fee is otherwise dependent upon the finding or result of such service.

A member's fees may vary depending, for example, on the complexity of services rendered. Fees are not regarded as being contingent if fixed by courts or other public authorities, or, in tax matters, if determined based on the results of judicial proceedings or the findings of governmental agencies.

History: Amended effective July 1, 1991; March 1, 1995; October 1, 1999.

General Authority: NDCC 43-02.2-03

Law Implemented: NDCC 43-02.2-03